

## DECISION MEMORANDUM

**TO:** COMMISSIONER KEMPTON  
COMMISSIONER SMITH  
COMMISSIONER REDFORD  
COMMISSION SECRETARY  
COMMISSION STAFF  
LEGAL

**FROM:** NEIL PRICE  
DEPUTY ATTORNEY GENERAL

**DATE:** SEPTEMBER 14, 2010

**SUBJECT:** PROPOSED ABANDONMENT OF A SECTION OF UNION PACIFIC RAILROAD COMPANY'S RAIL LINE FROM MILEPOST 0.9 TO MILEPOST 1.75, A TOTAL DISTANCE OF 0.85 MILES, IN CANYON COUNTY, IDAHO, CASE NO. UPR-R-10-01

On September 14, 2010, Union Pacific Railroad Company ("UPR" or "Company") issued a letter declaring that UPR intends to request authority from the Surface Transportation Board ("STB") to abandon and discontinue service, from Milepost 0.9 to Milepost 1.75, on the Stoddard Industrial Lead in Nampa, Canyon County, Idaho. UPR's action before the STB is referenced as Docket No. AB-33 (Sub-No. 294X). In addition, the Company attached a map outlining the portion of the rail line it intends to abandon.

### THE COMMISSION'S ROLE IN ABANDONMENTS

The STB is the federal entity with the authority to approve or deny railroad abandonments. However, *Idaho Code* § 62-424 provides that the Commission "shall schedule a public hearing on the proposed abandonment." The purpose of the state abandonment hearing is for the Commission to determine whether the abandonment would: (1) adversely affect the area being served; (2) impair the access of Idaho shippers to vital goods and markets; and (3) whether the rail line has the potential for profitability. If the Commission finds that the abandonment would adversely affect the area being served and the line has the potential for profitability, then the Commission may represent the State of Idaho in the STB abandonment proceeding.

Unlike the traditional abandonment process, the exemption process allows a railroad to abandon a rail line in as few as 30 days. Under the exemption process, there is no requirement

to file a notice of intent to abandon or an annual system diagram map showing rail lines in jeopardy. To be eligible to file a petition for exemption, a railroad must certify that no rail traffic has moved on the line for the past two years and there are no outstanding complaints about the lack of rail service on the line. Under the exemption procedure, the STB will publish a notice in the Federal Register within 20 days after the petition for exemption is filed. Thirty (30) days after the notice is published in the Federal Register, the railroad is permitted to abandon the rail line unless the STB stays the abandonment.

### **FACTUAL BACKGROUND**

UPR requests “assistance in identifying any potential effects of this action. . . .” *UPR Letter* at 1. Pursuant to federal law and STB regulations, UPR is required to submit an Environmental Report to the STB analyzing the potential environmental impact caused by the proposed abandonment. *Id.* UPR states that it does not “anticipate any adverse environmental impacts.” *Id.*

A preliminary investigation conducted by Commission Staff revealed several potential shippers along the .85 mile section of the rail line subject to abandonment. These shippers are currently trucking their goods to another section of the rail line for service because the .85 mile section of the Stoddard Industrial Lead is currently in disrepair. These shippers have expressed at least some interest in receiving rail service at their business situs.

### **COMMISSION DECISION**

Does the Commission wish to issue a Notice of Proposed Abandonment and Notice of Telephonic Hearing?



---

Neil Price  
Deputy Attorney General

M:UPR-R-10-01\_np